

## GOVERNOR PATRICK SIGNS MAJOR PENSION REFORM BILL PERAC'S Governance and Transparency Proposals Included

By Michael DeVito  
Director of Strategic Planning,  
Management and Public Affairs

**O**n November 18, 2011 Governor Deval Patrick signed Chapter 176 of the Acts of 2011, AN ACT

PROVIDING FOR PENSION REFORM AND BENEFIT MODERNIZATION. The Massachusetts legislature termed the effort, "Pension Modernization: Creating a More Sustainable and Affordable Public Employee Retirement Benefit System for



Pension Reform Bill Signed by Governor Deval Patrick.  
Photo: Eric Haynes/Governor's Office

the Future." The following is from the legislative summary of the bill:

The Legislature agreed today on landmark legislation aimed at modernizing our pension system for future

(Continued on Page 5)

## PERAC COMMISSIONER JAMES MACHADO REAPPOINTED BY GOVERNOR PATRICK Sworn-in to a Five Year Term

By Michael DeVito  
Director of Strategic Planning,  
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**J**ames M. Machado of Mattapoisett, Massachusetts was reappointed to a third successive term as a Commissioner of the Public Employee Retirement Administration Commission by Governor Deval Patrick on January 3, 2012. Massachusetts Attorney General Martha Coakley administered the oath of office to the Commissioner on January 18, 2012.

Commissioner Machado holds the seat reserved for a representative of a public safety union on the seven-member Commission. Mr. Machado previously served on the Board of the Massachusetts Pension Reserves Investment Trust, the Commonwealth's largest public pension investment fund.



Commissioner James Machado is sworn in by Attorney General Martha Coakley.

Mr. Machado holds a master's degree in criminal justice administration from Western New England College and has served for 32 years as a member of the Fall River Police Department, currently as Sergeant. He previously served as Treasurer of the Fall River Police Association and is a member of the Massachusetts State Police Accreditation

(Continued on Page 2)

### Also In This Issue

- PERAC PLACEMENT AGENT POLICY UP AND RUNNING
- SECTION 91A WAIVER SIGNED INTO LAW
- COUNSELING REFUND APPLICANTS
- PERAC'S TECHNOLOGY PERSPECTIVE
- PERAC KICKS OFF BOARD EDUCATION PROGRAM

### Public Employee Retirement Administration Commission

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**The Honorable Domenic J. F. Russo**  
Chairman

**The Honorable Suzanne M. Bump**  
Auditor of the Commonwealth

**Alan G. Macdonald**  
President Emeritus of the Massachusetts  
Business Roundtable

**James M. Machado**  
Sergeant  
Fall River Police Department

**Donald R. Marquis**  
Former Town Manager  
Arlington

**Robert B. McCarthy**  
President Emeritus of the Professional  
Firefighters of Massachusetts

**Gregory R. Mennis**  
Assistant Secretary, Finance and Infrastructure  
Executive Office of Administration & Finance

**Joseph E. Connarton**  
Executive Director

**Michael DeVito**  
Editor



## PERAC PLACEMENT AGENT POLICY UP AND RUNNING

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By Joseph I. Martin  
Deputy Executive Director

**P**ERAC's Placement Agent Policy took effect on January 1, 2012. Vendors have already begun to submit forms detailing relationships with those that act as a "finder, solicitor, marketer, consultant, broker or other intermediary in relation to the investment of assets of Massachusetts public pension systems, including any person or entity which provides proactive consultant services concerning the changing political and policy environment in New England and nationally as it relates to retirement plans, notwithstanding the description of such services as informational consulting services only not involving the referral of investment advisory services".

The Commission adopted this Policy following a public hearing and is taking this action in the wake of the approval of pension reform legislation which has altered the Commission's approach to establishment of revised investment regulations.

"The Commission is committed to assuring that retirement boards make fully informed decisions when selecting investment service providers," stressed Executive Director Joseph E. Connarton, "this policy is based on the need to make sure that all arrangements relating to that decision are transparent and that no hidden interests impact the investment of our pension funds."

The Policy provides that regulatory approvals and acknowledgments will be withheld

if a placement agent that the manager has used is not registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority or, if appropriate, the Commodity Futures Trading Commission or does not possess three years experience in the investment field. In addition, PERAC will prohibit any manager or placement agent from soliciting new investments from any retirement board for a period to be determined by the Commission after the manager or placement agent has committed a material violation of this regulation.

Placement agent forms are now available on the PERAC Website at the following Web address: [www.mass.gov/perac/forms/placementagentstatement.pdf](http://www.mass.gov/perac/forms/placementagentstatement.pdf).

## SECTION 91A WAIVER SIGNED INTO LAW PERAC proposal included in Chapter 176

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By Michael DeVito  
Director of Strategic Planning, Management and Public Affairs

**T**he Section 91A Waiver proposal (formerly H. 20), one of PERAC's 2011-2012 legislative proposals, was included as Section 51 of Chapter 176 of the Acts of 2011.

All Massachusetts' Accidental Disability retirees must annually file a Statement of Earned Income and certain tax forms with PERAC. However, Section 51 of Chapter 176 now allows PERAC to waive this filing require-

ment if a disability recipient has been retired for more than 20 years and not reported any earned income for the previous 10 years. PERAC's Fraud Prevention Unit estimates that the annual filing requirement could be waived for approximately 2,200 individuals. Please note that such retirees will be required to notify PERAC upon realizing any earned income in the future and resume Section 91A filings thereafter. Section 51 becomes effective on April 2, 2012. PERAC will begin implementation for calendar year 2012 Annual Statement filings.

In accordance with a long-standing col-

laborative agreement with the Massachusetts Department of Revenue (DOR) PERAC will continue to cross-match the earned income reported by Accidental Disability retirees with DOR's records.

PERAC wishes to thank Senator Katherine Clark, then Senate Chair, and John Scibak, House Chairman of the Joint Committee on Public Service, and their staffs, and Chairman of the House Committee on Steering, Policy and Scheduling Louis Kafka for their strong support of the waiver provision.

## PERAC COMMISSIONER JAMES MACHADO REAPPOINTED (continued from Page 1)

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Commission. Since 2008, Mr. Machado has served as Executive Director of the Massachusetts Police Association, the largest police organization in New England. He also has more than 30 years of experience in the investment field.

PERAC Chairman Domenic J. F. Russo welcomed Commissioner Machado's reappointment:

All of Jim's fellow Commissioners join me in congratulating him on his reappointment. During his first two terms, his

knowledge of public safety issues coupled with his extensive background in the investment field has been of great value to the Commission. In addition, his service as chair of our Audit/Fraud Subcommittee has been notably productive.

Executive Director Joseph E. Connarton also welcomed Commissioner Machado's reappointment:

Commissioner Machado's service goes beyond his able representation of his public safety union constituency. Because of his

background in the investment industry, Jim has made important contributions to the development of PERAC's investment policies for retirement boards – in particular, the hedge fund policy. In addition, Jim's expertise has enabled him to play a pivotal role in the Commission's navigation of the legislative process on Beacon Hill. Commissioner Machado's reappointment is great news and the staff looks forward to working with him as we meet the challenges of pension reform and policy-making in the years ahead.

This is the notice that now appears on the front of the *Massachusetts Teachers' Retirement Board Refund Applications*. It is also repeated in the applicant's, "I understand that," sign-off section of the applications.

PERAC will add similar language to its *Application for Withdrawal of Accumulated Total Deductions*.

**\*\*\* STOP and READ THIS NOW \*\*\***

**IMPORTANT NOTICE TO REFUND APPLICANTS REGARDING CHAPTER 176:  
Be aware of recent changes in the pension law,  
as they could affect your decision to withdraw your funds.**

On November 18, 2011, Chapter 176 of the Acts of 2011 was signed into law. Chapter 176 makes significant changes to the calculation of retirement benefits for new members who enter the retirement system on or after April 2, 2012.

**Be aware that, if you take a refund of your retirement contributions, you will terminate your membership in the Massachusetts Teachers' Retirement System. If you later return to Massachusetts public service on or after April 2, 2012 after receiving a refund, YOU WILL BE CONSIDERED A NEW EMPLOYEE and will be subject to the pension reform changes included within Chapter 176 of the Acts of 2011.**

These changes include, but are not limited to:

- A new age factor table that will require you to work longer for the same or a similar benefit that you would receive under today's table.
- An increase in the salary average period used in the retirement benefit calculation formula from 3 years to 5 years.
- An increase in the minimum retirement age from age 55 to 60.

If you have any questions regarding this notice please contact us immediately.



## PERAC'S TECHNOLOGY PERSPECTIVE

### ELECTRONIC DOCUMENT AND FILE EXCHANGE: Expanded Use of the Commonwealth's Secure File and E-mail Delivery System (SFED)

*By Paul R. Laliberte  
Director of Information Systems*

In the June 2011 edition of the *PERAC Pension News*, I reported on the Document Exchange Pilot Project with the State Retirement Board and indicated that PERAC would be able to expand the use of SFED to exchange disability-related documents with other interested retirement boards before the end of the year. If your retirement board is interested in sending Medical Panel Requests and disability transmittal documents to PERAC electronically via SFED, please contact me at [prlaliberte@per.state.ma.us](mailto:prlaliberte@per.state.ma.us).

In addition, in Memo #37 of 2011, PERAC asked retirement boards to utilize the SFED Web-based application to send their

member, retiree and disability files to the Actuarial Unit rather than mailing CDs or floppy disks via the US Postal Service. To date, 60 boards (approx.) responded and contacted John Boorack to request an SFED account. We urge all of the remaining boards to contact John at [JBoorack@per.state.ma.us](mailto:JBoorack@per.state.ma.us) so SFED accounts can be established for them as well.

PERAC has set up Departmental SFED Accounts for PERAC's Actuarial, Disability and Legal Units: [PER-eDoc-Actuary@per.state.ma.us](mailto:PER-eDoc-Actuary@per.state.ma.us), [PER-eDoc-Disability@per.state.ma.us](mailto:PER-eDoc-Disability@per.state.ma.us) and [PER-eDoc-Legal@per.state.ma.us](mailto:PER-eDoc-Legal@per.state.ma.us). You may exchange documents and files electronically with staff members in these Units through these departmental accounts. In order to expedite the electronic exchange of data involved with the Audit

process and the specific auditor(s) who will conduct your audit, each Auditor now has an SFED account which is associated with his/her e-mail address ending with [@per.state.ma.us](mailto:@per.state.ma.us).

We must all be mindful of the requirements to protect members' personal and medical information. The greatest exposure for unauthorized access occurs during the exchange or transmission of data, or when data is saved to a mobile device that is lost or compromised. SFED is a proven, easy-to-use Web-based application for the secured electronic exchange of documents and files. It is the best and most secure method of exchanging data with PERAC.

# PERAC KICKS OFF BOARD EDUCATION PROGRAM

## New Law Mandates Retirement Board Member Training

By Joseph I. Martin  
Deputy Executive Director

PERAC wasted no time in implementing the provisions of Chapter 176 concerning board member education as it established a series of training sessions for the first quarter of 2012. "The Commission believes that the education provisions form one of the centerpieces of governance reform," said Executive Director, Joseph E. Connarton, "and that belief is reflected in the swift creation of the initial program." PERAC sent a memo to retirement boards on December 9, 2011 (PERAC Memo #38 - 2011) that outlined the times, places and topics for the first in a series of training sessions to be held in 2012 including:

### PERAC Annual Statement Training Program (Three Hours Credit):

1. February 9, 2012 at 10:00 a.m. at the West Springfield Municipal Office Building, 26 Central Street, West Springfield, MA. (Please e-mail Katie Bozzi at [KJbozzi@per.state.ma.us](mailto:KJbozzi@per.state.ma.us) to make reservations.) Snow date is February 10, 2012.
2. February 14, 2012 at 10:00 a.m. at the PERAC Offices, 5 Middlesex Avenue, Suite 304, Somerville, MA. (Please e-mail Katie Bozzi at [KJbozzi@per.state.ma.us](mailto:KJbozzi@per.state.ma.us) to make reservations.) Snow date is February 15, 2012.

### State Ethics Commission Seminars (Three Hours Credit):

PERAC has arranged for an educational seminar to be conducted by the State Ethics Commission as follows:

1. February 7, 2012 at 10:00 a.m. at the PERAC Offices, 5 Middlesex Avenue, Suite 304, Somerville, MA. (Please e-mail Katie Bozzi at [KJbozzi@per.state.ma.us](mailto:KJbozzi@per.state.ma.us) to make reservations.) Snow date is February 8, 2012.

The State Ethics Commission will also conduct educational seminars on this topic throughout 2012 at its offices in Boston at One Ashburton Place, Room 619.

The following is the schedule of these sessions for 2012:

January 26, 2012 at 10:00 a.m.  
February 23, 2012 at 10:00 a.m.  
March 29, 2012 at 10:00 a.m.  
April 26, 2012 at 10:00 a.m.  
May 31, 2012 at 10:00 a.m.  
June 28, 2012 at 10:00 a.m.  
July 26, 2012 at 10:00 a.m.  
August 23, 2012 at 10:00 a.m.  
September 27, 2012 at 10:00 a.m.  
October 25, 2012 at 10:00 a.m.  
November 29, 2012 at 10:00 a.m.

**Seating at these sessions is limited.**  
Please contact 617-371-9500 to enroll.

### Office of the Inspector General – Bidding Basics (Three Hours Credit):

The Office of the Inspector General (OIG) has developed an introductory online course that covers the legal requirements for the procurement of contracts by local government bodies for supplies and services under M.G.L. c. 30B. Although that statute does not apply to "a contract for retirement board services" recently enacted law sets forth similar requirements for retirement boards to follow when seeking certain services. In addition, retirement board members, under their fiduciary duty to act as a prudent expert would act, should employ best practices in this area.

The course takes two to three hours to complete. It is available through the Commonwealth's Learning Management System/Performance and Career Enhancement (PACE) through an internet connection. In the alternative, you can complete the course using a CD. Registration forms are available at [www.mass.gov/ig/mcppo/bb\\_online\\_regform.doc](http://www.mass.gov/ig/mcppo/bb_online_regform.doc) and must be submitted to the OIG.

PERAC is in discussion with the OIG to schedule stand-alone sessions for retirement boards. As soon as plans are finalized we will inform you.

### PERAC Disability Training Program (Three Hours Credit):

PERAC's Disability Unit will be providing training sessions as follows:

1. February 22, 2012 at 10:00 a.m. at the PERAC Offices, 5 Middlesex Avenue, Suite 304, Somerville, MA. (Please e-mail Katie Bozzi at [KJbozzi@per.state.ma.us](mailto:KJbozzi@per.state.ma.us) to make reservations.) Snow date is February 23, 2012.
2. May 16, 2012 at 10:00 a.m. at the PERAC Offices 5 Middlesex Avenue, Suite 304, Somerville, MA. (Please e-mail Katie Bozzi at [KJbozzi@per.state.ma.us](mailto:KJbozzi@per.state.ma.us) to make reservations.)
3. November 14, 2012 at 10:00 a.m. at the PERAC Offices, 5 Middlesex Avenue, Suite 304, Somerville, MA (Please e-mail Katie Bozzi at [KJbozzi@per.state.ma.us](mailto:KJbozzi@per.state.ma.us) to make reservations.) Snow date is November 15, 2012.

These classes represent 24 PERAC-sponsored hours plus ongoing programs through the OIG and 33 hours through the Ethics Commission for 2012. The total number of hours made available is 57 (plus) and a board member who completes three of these sessions covering different subjects will have received the maximum nine hours of credit.

"We are working with the Massachusetts Association of Contributory Retirement Systems (MACRS) to create an education program to be held at the group's meetings in the spring and fall," Mr. Connarton noted, "We also expect to sponsor other events throughout the year to assist board members in meeting the law's requirements."

employees. The legislation contains several modifications that will strengthen our pension laws, protect the defined benefit plan for public employees, and save public money. The extension of our pension funding schedule to 2040 in FY12 budget makes these adjustments, worth over \$5 billion in savings, both necessary and reasonable.

**Increases the retirement age for public employees who become retirement system members on or after April 2, 2012**

The retirement age is increased for new employees only, reflecting the fact that people are living and working longer than when retirement ages were set in state law in the 1950s and 1960s. This change moves the state system closer to Social Security benefit parameters.

**Increases the look-back period and early retirement penalties for public employees who become retirement system members on or after April 2, 2012**

The period for averaging earnings for purposes of calculating a new member's retirement allowance is increased from three to five years. A longer averaging period will more accurately reflect an employee's career earnings. This bill also increases the early retirement discount factors which reduce the pension benefit for an employee who retires prior to the full retirement age.

**Enhances benefits for long-serving employees, teachers, and retirees**

The impact of the aforementioned changes on Group 1 employees, teachers, and retirees is moderated by easing contribution rates after 30 years of service for those entering service on or after April 2, 2012... enhancing the Retirement Plus program for teachers, and increasing the cost-of-living-allowance base for all such state and teacher retirees by \$1,000.

**Prorates benefits based on employment history for public employees who become retirement system members on or after April 2, 2012**

The retirement allowance for new employ-

ees who serve in more than one service Group (1, 2, 3 or 4) will be prorated by taking into account the number of years served in each Group.

**Eliminates the Section 10 early retirement option for public employees who become retirement system members on or after April 2, 2012**

Previous pension reform legislation eliminated the Section 10 early retirement incentive for elected officials. This bill eliminates the provision for new employees and states that a benefit cannot be received until the member has reached the minimum retirement age.

**Criminal conviction recoupment power**

Retirement boards shall require a retiree with a final criminal conviction that results in the forfeiture of retirement benefits to repay benefits received since the date of the offense, not just the date of conviction.

**Other provisions include:**

Anti-salary spiking protections, one-year active service requirement for higher groups, salary disclosure requirements, mandatory retirement age for state police, new rules for creditable service buyback, increased minimum pension to \$15,000, updated pension governance and administrative laws, and special commissions on group classification, disability benefits, and retiree health care benefits.

**PERAC's Summary of Governance Provisions**

All of the pension governance proposals filed by the Commission in 2011 ( H. 16) were included in Chapter 176 with very minor changes. They include:

- (1) The establishment of an explicit open and competitive procurement process to be followed by boards when soliciting investment, actuarial, legal or accounting services;
- (2) Requiring board members to file statements of financial interests;
- (3) Prohibiting vendors, contractors,

employees or others receiving remuneration from a retirement board or anyone doing business with a retirement board from serving on the retirement board;

- (4) Requiring board members to submit a sworn statement that to the best of his or her knowledge any proposal made as part of a competitive process is being submitted in good faith and without collusion and fraud; and,
- (5) Requiring relevant education for board members.

In addition, in the area of transparency, the Act:

- (1) Authorizes PERAC to debar firms from doing business with Massachusetts retirement systems if the firm has been convicted of a crime involving public contracts; found to supply false information in an effort to obtain a contract; submitted an inaccurate disclosure statement to the Commission or a board; or has failed to disclose to a board or the Commission compensation provided to any person in relation to attempting to obtain a public contract. This provision enables the Commission to proceed against firms which have violated these provisions elsewhere in the country;
- (2) Codifies disclosure requirements mandating that all vendors annually inform the Commission and the board of any compensation arrangements to be received or to be paid for the services provided as well as annually disclose any conflict of interest that may exist;
- (3) Requires vendors to submit a sworn statement that a good faith proposal has been made without collusion or fraud; and,
- (4) Establishes civil penalties, including double damages for violations of competitive process and disclosure requirements.

**Chapter 176 Signed**

PERAC Executive Director Joseph E. Connarton and Legislative Director Michael DeVito attended the signing ceremony on November 18, 2011 in the Governor's office. Mr. Connarton com-

mented on the significance of the Act:

On behalf of the Commission I want to congratulate Governor Patrick, Senate President Therese Murray, and Speaker Robert DeLeo upon the passage of this comprehensive pension reform Act. They have now overseen several major retirement system reforms over the past few years. Each reform seems to overshadow the previous in its scope and groundbreaking approach to pension reform. This Act has already had a beneficial financial impact in light of the positive bond rating upgrade for the Commonwealth as vigorously sought by Treasurer Steven Grossman. While contraction of benefits is always a difficult endeavor, limiting the impact to mostly future employees must be looked upon as a fair, sound and equitable approach.

### **Governance provisions**

Executive Director Connarton noted, "The inclusion of the governance provisions in this Act is another example of the landmark pension reforms that have been undertaken by Governor Patrick and the legislature. An official at the National Conference of State Legislatures has described the reforms as 'far-reaching, model enactments that other states will pay careful attention to.'" The Commission has now turned its full attention to the implementa-

tion phase of the Act and will continue to work with the Massachusetts Association of Contributory Retirement Systems (MACRS) and the entire Massachusetts retirement community in seeing that this implementation phase proceeds as smoothly as possible.

Many individuals were instrumental in the passage of the PERAC pension governance provisions. In addition to His Excellency Governor Deval Patrick, Senate President Murray and House Speaker DeLeo, we wish to thank our current Vice Chair, The Honorable Suzanne Bump, Auditor of the Commonwealth who sent a forceful letter in support to the legislature and who advocated vigorously for the passage of these provisions.

We'd also like to thank our Governance Advisory Committee chaired by former Massachusetts Attorney General Scott Harshbarger, Senior Counsel, at Proskauer Rose LLP for their assistance:

- Professor Cary Coglianese, Edward B. Shils Professor of Law and Professor of Political Science, Director, Penn Program on Regulation at University of Pennsylvania Law School;
- Paul M. Healy, James R. Williston Professor of Business Administration and Senior Associate Dean, Director of Research at Harvard Business School;
- Alan G. Macdonald, President

Emeritus of the Massachusetts Business Roundtable (and now PERAC Commissioner); and,

- Jerrold Mitchell, Senior Advisor at Saltonstall & Company.

In the legislature, key participants included then Senate Joint Committee on Public Service Chairwoman Katherine Clark and her Chief-of-staff Jessica Leitz and House Chairman John Scibak and his Committee staff led by Patrick Charles, Counsel and Research Director and Danielle Fox, legislative analyst; Chairman Steven Brewer, of the Senate Committee on Ways and Means; and, Chairman Brian Dempsey of the House Committee on Ways and Means. We also extend thanks to President Ralph White and Shawn Duhamel of the Retired State, County and Municipal Employees Association of Massachusetts and President Denis Devine and Legislative Counsel J. Coleman Walsh of the Massachusetts Association of Contributory Retirement Systems. They worked with PERAC to develop a bill that not only met the major concerns of their constituencies but also provided for the governance and transparency enhancements that are so important going forward.